

AMENDED IN ASSEMBLY JULY 16, 2015

AMENDED IN SENATE JUNE 2, 2015

AMENDED IN SENATE APRIL 6, 2015

**SENATE BILL**

**No. 519**

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**Introduced by Senator Hancock  
(Coauthor: Senator Leno)**

February 26, 2015

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An act to amend Sections 13952, 13956, 13957, 13958, and 13959 of the Government Code, and to amend ~~Sections 1050 and~~ *Section* 1202.4 of the Penal Code, relating to victims of crime, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 519, as amended, Hancock. Victims of crime.

(1) Existing law provides for the indemnification of victims and derivative victims of specified types of crimes by the California Victim Compensation and Government Claims Board, subject to specified criteria for, among other things, submission and verification of applications, eligibility for emergency awards and compensation for specified services, and procedures for hearings with respect to the denial of awards. Existing law requires the board to publicize programs related to these provisions, including, among others, the procedures to obtain compensation from the board. Payment of claims and certain programs administered by the board are made under these provisions from the Restitution Fund, which is continuously appropriated to the board for these purposes.

This bill would require all correspondence by the board to an applicant to be written in English, Spanish, Chinese (Mandarin and Cantonese),

Vietnamese, Korean, East Armenian, Tagalog, Russian, Arabic, Farsi, Hmong, and Khmer. The bill would prohibit the board from requiring an applicant to submit documentation from the Internal Revenue Service, the Franchise Tax Board, the State Board of Equalization, the Social Security Administration, or the Employment Development Department in order to determine eligibility for compensation.

(2) Existing law authorizes the board to compensate an individual who voluntarily, and without anticipation of personal gain, pays or assumes the obligation to pay a crime victim's funeral and burial expenses, up to \$7,500, incurred as a direct result of the crime.

~~This bill would specifically require the board to consider granting an applicant an award up to \$7,500, and prohibit any regulation or policy by the board creating a maximum amount of an award pursuant to this provision for less than \$7,500.~~

(3) Existing law requires an application for compensation to be denied if the board finds that the victim failed to cooperate reasonably with a law enforcement agency in the apprehension and conviction of a criminal committing a crime. Existing law also requires an application for compensation to be denied if a person has been convicted of a felony and is not discharged from probation.

This bill would prohibit a claim from being denied pursuant to these provisions in any case in which the victim is eligible for compensation as a minor. This bill would also remove the prohibition against granting compensation to a person convicted of a felony, but not discharged from parole, if the compensation is solely used to fund mental health counseling. By expanding the eligibility for payments from a continuously appropriated fund, this bill would make an appropriation.

(4) Existing law requires the board to approve or deny applications, based on recommendations of the board staff, within an average of 90 calendar days and no later than 180 calendar days of acceptance by the board or victim center, and to report to the Legislature if the board fails to do so, as specified.

This bill would require the board to approve or deny applications within 90 days total and modifies the reporting requirements accordingly.

(5) Existing law requires board hearings to be informal and authorizes ~~these hearing~~ *hearings* to not be conducted according to the technical rules relating to evidence and witnesses.

This bill would require the board to allow a service animal to accompany and support a witness while testifying at a board hearing.

~~(6) Existing law authorizes a party to a criminal proceeding to move for a continuance upon a showing of good cause. Existing law describes “good cause” for purposes of that provision.~~

~~This bill would specify that “good cause” includes those cases involving elder abuse, as defined, when the prosecuting attorney has another trial, preliminary hearing, or motion to suppress in progress. This bill would also make technical changes to this provision.~~

~~(7)~~

(6) Existing law requires the court to order a person who is convicted of a crime to pay restitution to the victim or victims for the full amount of economic loss, unless the court finds compelling and extraordinary reasons for not doing so and states them on the record. Existing law provides the defendant the right to a hearing before a judge to dispute the determination of the amount of restitution and authorizes the court to modify the amount of restitution.

This bill would authorize a victim at a restitution or modification hearing to testify by live, 2-way audio and video transmission, if that type of transmission is available at the court.

~~(8)~~

(7) By expanding the authorizations for use of moneys in the Restitution Fund, a continuously appropriated fund, this bill would make an appropriation.

Vote:  $\frac{2}{3}$ . Appropriation: yes. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 13952 of the Government Code is  
2     amended to read:  
3     13952. (a) An application for compensation shall be filed with  
4     the board in the manner determined by the board.  
5     (b) (1) The application for compensation shall be verified under  
6     penalty of perjury by the individual who is seeking compensation,  
7     who may be the victim or derivative victim, or an individual  
8     seeking reimbursement for burial, funeral, or crime scene cleanup  
9     expenses pursuant to subdivision (a) of Section 13957. If the  
10    individual seeking compensation is a minor or is incompetent, the  
11    application shall be verified under penalty of perjury or on  
12    information and belief by the parent with legal custody, guardian,  
13    conservator, or relative caregiver of the victim or derivative victim

1 for whom the application is made. However, if a minor seeks  
2 compensation only for expenses for medical, medical-related,  
3 psychiatric, psychological, or other mental health  
4 counseling-related services and the minor is authorized by statute  
5 to consent to those services, the minor may verify the application  
6 for compensation under penalty of perjury.

7 (2) For purposes of this subdivision, “relative caregiver” means  
8 a relative as defined in subdivision (h) of Section 6550 of the  
9 Family Code, who assumed primary responsibility for the child  
10 while the child was in the relative’s care and control, and who is  
11 not a biological or adoptive parent.

12 (c) (1) The board may require submission of additional  
13 information supporting the application that is reasonably necessary  
14 to verify the application and determine eligibility for compensation.

15 (2) The staff of the board shall determine whether an application  
16 for compensation contains all of the information required by the  
17 board. If the staff determines that an application does not contain  
18 all of the required information, the staff shall communicate that  
19 determination to the applicant with a brief statement of the  
20 additional information required. The applicant, within 30 calendar  
21 days of being notified that the application is incomplete, may either  
22 supply the additional information or appeal the staff’s  
23 determination to the board, which shall review the application to  
24 determine whether it is complete.

25 (3) The board shall not require an applicant to submit  
26 documentation from the Internal Revenue Service, the Franchise  
27 Tax Board, the State Board of Equalization, the Social Security  
28 Administration, or the Employment Development Department in  
29 order to determine eligibility for compensation.

30 (d) (1) The board may recognize an authorized representative  
31 of the victim or derivative victim, who shall represent the victim  
32 or derivative victim pursuant to rules adopted by the board.

33 (2) For purposes of this subdivision, “authorized representative”  
34 means any of the following:

35 (A) An attorney.

36 (B) If the victim or derivative victim is a minor or an  
37 incompetent adult, the legal guardian or conservator, or an  
38 immediate family member, parent, or relative caregiver who is not  
39 the perpetrator of the crime that gave rise to the claim.

1 (C) A victim assistance advocate certified pursuant to Section  
2 13835.10 of the Penal Code.

3 (D) An immediate family member of the victim or derivative  
4 victim, who has written authorization by the victim or derivative  
5 victim, and who is not the perpetrator of the crime that gave rise  
6 to the claim.

7 (E) Other persons who shall represent the victim or derivative  
8 victim pursuant to rules adopted by the board.

9 (F) A county social worker designated by a county department  
10 of social services to represent a child abuse victim or an elder  
11 abuse victim if that victim is unable to file on his or her own behalf.

12 (3) Except for attorney's fees awarded under this chapter, no  
13 authorized representative described in paragraph (2) shall charge,  
14 demand, receive, or collect any amount for services rendered under  
15 this subdivision.

16 (e) All correspondence by the board to an applicant shall be  
17 written in English, Spanish, Chinese (Mandarin and Cantonese),  
18 Vietnamese, Korean, East Armenian, Tagalog, Russian, Arabic,  
19 Farsi, ~~Mong~~, Hmong, and Khmer.

20 SEC. 2. Section 13956 of the Government Code is amended  
21 to read:

22 13956. Notwithstanding Section 13955, a person shall not be  
23 eligible for compensation under the following conditions:

24 (a) An application shall be denied if the board finds that the  
25 victim or, if compensation is sought by or on behalf of a derivative  
26 victim, either the victim or derivative victim, knowingly and  
27 willingly participated in the commission of the crime that resulted  
28 in the pecuniary loss for which compensation is being sought  
29 pursuant to this chapter. However, this subdivision shall not apply  
30 if the injury or death occurred as a direct result of a crime  
31 committed in violation of Section 261, 262, or 273.5 of, or a crime  
32 of unlawful sexual intercourse with a minor committed in violation  
33 of subdivision (d) of Section 261.5 of, the Penal Code.

34 (b) (1) An application shall be denied if the board finds that  
35 the victim or, if compensation is sought by, or on behalf of, a  
36 derivative victim, either the victim or derivative victim failed to  
37 cooperate reasonably with a law enforcement agency in the  
38 apprehension and conviction of a criminal committing the crime.  
39 However, in determining whether cooperation has been reasonable,  
40 the board shall consider the victim's or derivative victim's age,

1 physical condition, and psychological state, cultural or linguistic  
2 barriers, any compelling health and safety concerns, including, but  
3 not limited to, a reasonable fear of retaliation or harm that would  
4 jeopardize the well-being of the victim or the victim's family or  
5 the derivative victim or the derivative victim's family, and giving  
6 due consideration to the degree of cooperation of which the victim  
7 or derivative victim is capable in light of the presence of any of  
8 these factors. An application for a claim shall not be denied  
9 pursuant to this paragraph in any case in which the victim is eligible  
10 for compensation as a minor.

11 (2) An application for a claim based on domestic violence shall  
12 not be denied solely because no police report was made by the  
13 victim. The board shall adopt guidelines that allow the board to  
14 consider and approve applications for assistance based on domestic  
15 violence relying upon evidence other than a police report to  
16 establish that a domestic violence crime has occurred. Factors  
17 evidencing that a domestic violence crime has occurred may  
18 include, but are not limited to, medical records documenting  
19 injuries consistent with allegations of domestic violence, mental  
20 health records, or the fact that the victim has obtained a temporary  
21 or permanent restraining order, or all of these.

22 (3) An application for a claim based on human trafficking as  
23 defined in Section 236.1 of the Penal Code shall not be denied  
24 solely because no police report was made by the victim. The board  
25 shall adopt guidelines that allow the board to consider and approve  
26 applications for assistance based on human trafficking relying  
27 upon evidence other than a police report to establish that a human  
28 trafficking crime as defined in Section 236.1 of the Penal Code  
29 has occurred. That evidence may include any reliable corroborating  
30 information approved by the board, including, but not limited to,  
31 the following:

32 (A) A Law Enforcement Agency Endorsement issued pursuant  
33 to Section 236.2 of the Penal Code.

34 (B) A human trafficking caseworker, as identified in Section  
35 1038.2 of the Evidence Code, has attested by affidavit that the  
36 individual was a victim of human trafficking.

37 (4) (A) An application for a claim by a military personnel victim  
38 based on a sexual assault by another military personnel shall not  
39 be denied solely because it was not reported to a superior officer  
40 or law enforcement at the time of the crime.

1 (B) Factors that the board shall consider for purposes of  
2 determining if a claim qualifies for compensation include, but are  
3 not limited to, the evidence of the following:

4 (i) Restricted or unrestricted reports to a military victim  
5 advocate, sexual assault response coordinator, chaplain, attorney,  
6 or other military personnel.

7 (ii) Medical or physical evidence consistent with sexual assault.

8 (iii) A written or oral report from military law enforcement or  
9 a civilian law enforcement agency concluding that a sexual assault  
10 crime was committed against the victim.

11 (iv) A letter or other written statement from a sexual assault  
12 counselor, as defined in Section 1035.2 of the Evidence Code,  
13 licensed therapist, or mental health counselor, stating that the  
14 victim is seeking services related to the allegation of sexual assault.

15 (v) A credible witness to whom the victim disclosed the details  
16 that a sexual assault crime occurred.

17 (vi) A restraining order from a military or civilian court against  
18 the perpetrator of the sexual assault.

19 (vii) Other behavior by the victim consistent with sexual assault.

20 (C) For purposes of this subdivision, the sexual assault at issue  
21 shall have occurred during military service, including deployment.

22 (D) For purposes of this subdivision, the sexual assault may  
23 have been committed off base.

24 (E) For purposes of this subdivision, a “perpetrator” means an  
25 individual who is any of the following at the time of the sexual  
26 assault:

27 (i) An active duty military personnel from the United States  
28 Army, Navy, Marine Corps, Air Force, or Coast Guard.

29 (ii) A civilian employee of any military branch specified in  
30 clause (i), military base, or military deployment.

31 (iii) A contractor or agent of a private military or private security  
32 company.

33 (iv) A member of the California National Guard.

34 (F) For purposes of this subdivision, “sexual assault” means an  
35 offense included in Section 261, 262, 264.1, 286, 288a, or 289 of  
36 the Penal Code, as of the date the act that added this paragraph  
37 was enacted.

38 (c) An application for compensation may be denied, in whole  
39 or in part, if the board finds that denial is appropriate because of  
40 the nature of the victim’s or other applicant’s involvement in the

1 events leading to the crime or the involvement of the persons whose  
2 injury or death gives rise to the application. In the case of a minor,  
3 the board shall consider the minor's age, physical condition, and  
4 psychological state, as well as any compelling health and safety  
5 concerns, in determining whether the minor's application should  
6 be denied pursuant to this section. The application of a derivative  
7 victim of domestic violence under 18 years of age or a derivative  
8 victim of trafficking under 18 years of age may not be denied on  
9 the basis of the denial of the victim's application under this  
10 subdivision.

11 (d) (1) Notwithstanding Section 13955, a person who is  
12 convicted of a felony shall not be granted compensation until that  
13 person has been discharged from probation or has been released  
14 from a correctional institution and has been discharged from parole,  
15 if any, unless the compensation is solely used to fund mental health  
16 counseling. In no case shall compensation be granted to an  
17 applicant pursuant to this chapter during any period of time the  
18 applicant is held in a correctional institution.

19 (2) A person who has been convicted of a felony may apply for  
20 compensation pursuant to this chapter at any time, but the award  
21 of that compensation may not be considered until the applicant  
22 meets the requirements for compensation set forth in paragraph  
23 (1).

24 (3) Applications of victims who are not felons shall receive  
25 priority in the award of compensation over an application submitted  
26 by a felon who has met the requirements for compensation set  
27 forth in paragraph (1).

28 SEC. 3. Section 13957 of the Government Code is amended  
29 to read:

30 13957. (a) The board may grant for pecuniary loss, when the  
31 board determines it will best aid the person seeking compensation,  
32 as follows:

33 (1) Subject to the limitations set forth in Section 13957.2,  
34 reimburse the amount of medical or medical-related expenses  
35 incurred by the victim, including, but not limited to, eyeglasses,  
36 hearing aids, dentures, or any prosthetic device taken, lost, or  
37 destroyed during the commission of the crime, or the use of which  
38 became necessary as a direct result of the crime.

39 (2) Subject to the limitations set forth in Section 13957.2,  
40 reimburse the amount of outpatient psychiatric, psychological, or



1 other mental health counseling-related expenses incurred by the  
2 victim or derivative victim, including peer counseling services  
3 provided by a rape crisis center as defined by Section 13837 of  
4 the Penal Code, and including family psychiatric, psychological,  
5 or mental health counseling for the successful treatment of the  
6 victim provided to family members of the victim in the presence  
7 of the victim, whether or not the family member relationship  
8 existed at the time of the crime, that became necessary as a direct  
9 result of the crime, subject to the following conditions:

10 (A) The following persons may be reimbursed for the expense  
11 of their outpatient mental health counseling in an amount not to  
12 exceed ten thousand dollars (\$10,000):

13 (i) A victim.

14 (ii) A derivative victim who is the surviving parent, sibling,  
15 child, spouse, fiancé, or fiancée of a victim of a crime that directly  
16 resulted in the death of the victim.

17 (iii) A derivative victim, as described in paragraphs (1) to (4),  
18 inclusive, of subdivision (c) of Section 13955, who is the primary  
19 caretaker of a minor victim whose claim is not denied or reduced  
20 pursuant to Section 13956 in a total amount not to exceed ten  
21 thousand dollars (\$10,000) for not more than two derivative  
22 victims.

23 (B) The following persons may be reimbursed for the expense  
24 of their outpatient mental health counseling in an amount not to  
25 exceed five thousand dollars (\$5,000):

26 (i) A derivative victim not eligible for reimbursement pursuant  
27 to subparagraph (A), provided that mental health counseling of a  
28 derivative victim described in paragraph (5) of subdivision (c) of  
29 Section 13955, shall be reimbursed only if that counseling is  
30 necessary for the treatment of the victim.

31 (ii) A victim of a crime of unlawful sexual intercourse with a  
32 minor committed in violation of subdivision (d) of Section 261.5  
33 of the Penal Code. A derivative victim of a crime committed in  
34 violation of subdivision (d) of Section 261.5 of the Penal Code  
35 shall not be eligible for reimbursement of mental health counseling  
36 expenses.

37 (iii) A minor who suffers emotional injury as a direct result of  
38 witnessing a violent crime and who is not eligible for  
39 reimbursement of the costs of outpatient mental health counseling  
40 under any other provision of this chapter. To be eligible for

1 reimbursement under this clause, the minor must have been in  
2 close proximity to the victim when he or she witnessed the crime.

3 (C) The board may reimburse a victim or derivative victim for  
4 outpatient mental health counseling in excess of that authorized  
5 by subparagraph (A) or (B) or for inpatient psychiatric,  
6 psychological, or other mental health counseling if the claim is  
7 based on dire or exceptional circumstances that require more  
8 extensive treatment, as approved by the board.

9 (D) Expenses for psychiatric, psychological, or other mental  
10 health counseling-related services may be reimbursed only if the  
11 services were provided by either of the following individuals:

12 (i) A person who would have been authorized to provide those  
13 services pursuant to former Article 1 (commencing with Section  
14 13959) as it read on January 1, 2002.

15 (ii) A person who is licensed by the state to provide those  
16 services, or who is properly supervised by a person who is so  
17 licensed, subject to the board's approval and subject to the  
18 limitations and restrictions the board may impose.

19 (3) Reimburse the expenses of nonmedical remedial care and  
20 treatment rendered in accordance with a religious method of healing  
21 recognized by state law.

22 (4) Subject to the limitations set forth in Section 13957.5,  
23 authorize compensation equal to the loss of income or loss of  
24 support, or both, that a victim or derivative victim incurs as a direct  
25 result of the victim's or derivative victim's injury or the victim's  
26 death. If the victim or derivative victim requests that the board  
27 give priority to reimbursement of loss of income or support, the  
28 board may not pay medical expenses, or mental health counseling  
29 expenses, except upon the request of the victim or derivative victim  
30 or after determining that payment of these expenses will not  
31 decrease the funds available for payment of loss of income or  
32 support.

33 (5) Authorize a cash payment to or on behalf of the victim for  
34 job retraining or similar employment-oriented services.

35 (6) Reimburse the claimant for the expense of installing or  
36 increasing residential security, not to exceed one thousand dollars  
37 (\$1,000). Reimbursement shall be made either upon verification  
38 by law enforcement that the security measures are necessary for  
39 the personal safety of the claimant or verification by a mental  
40 health treatment provider that the security measures are necessary

1 for the emotional well-being of the claimant. For purposes of this  
2 paragraph, a claimant is the crime victim, or, if the victim is  
3 deceased, a person who resided with the deceased at the time of  
4 the crime. Installing or increasing residential security may include,  
5 but need not be limited to, both of the following:

6 (A) Home security device or system.

7 (B) Replacing or increasing the number of locks.

8 (7) Reimburse the expense of renovating or retrofitting a  
9 victim's residence or a vehicle, or both, to make the residence, the  
10 vehicle, or both, accessible or the vehicle operational by a victim  
11 upon verification that the expense is medically necessary for a  
12 victim who is permanently disabled as a direct result of the crime,  
13 whether the disability is partial or total.

14 (8) (A) Authorize a cash payment or reimbursement not to  
15 exceed two thousand dollars (\$2,000) to a victim for expenses  
16 incurred in relocating, if the expenses are determined by law  
17 enforcement to be necessary for the personal safety of the victim  
18 or by a mental health treatment provider to be necessary for the  
19 emotional well-being of the victim.

20 (B) The cash payment or reimbursement made under this  
21 paragraph shall only be awarded to one claimant per crime giving  
22 rise to the relocation. The board may authorize more than one  
23 relocation per crime if necessary for the personal safety or  
24 emotional well-being of the claimant. However, the total cash  
25 payment or reimbursement for all relocations due to the same crime  
26 shall not exceed two thousand dollars (\$2,000). For purposes of  
27 this paragraph a claimant is the crime victim, or, if the victim is  
28 deceased, a person who resided with the deceased at the time of  
29 the crime.

30 (C) The board may, under compelling circumstances, award a  
31 second cash payment or reimbursement to a victim for another  
32 crime if both of the following conditions are met:

33 (i) The crime occurs more than three years from the date of the  
34 crime giving rise to the initial relocation cash payment or  
35 reimbursement.

36 (ii) The crime does not involve the same offender.

37 (D) When a relocation payment or reimbursement is provided  
38 to a victim of sexual assault or domestic violence and the identity  
39 of the offender is known to the victim, the victim shall agree not  
40 to inform the offender of the location of the victim's new residence

1 and not to allow the offender on the premises at any time, or shall  
2 agree to seek a restraining order against the offender.

3 (E) Notwithstanding subparagraphs (A) and (B), the board may  
4 increase the cash payment or reimbursement for expenses incurred  
5 in relocating to an amount greater than two thousand dollars  
6 (\$2,000), if the board finds this amount is appropriate due to the  
7 unusual, dire, or exceptional circumstances of a particular claim.

8 (9) When a victim dies as a result of a crime, the board may  
9 reimburse any individual who voluntarily, and without anticipation  
10 of personal gain, pays or assumes the obligation to pay any of the  
11 following expenses:

12 (A) The medical expenses incurred as a direct result of the crime  
13 in an amount not to exceed the rates or limitations established by  
14 the board.

15 (B) The funeral and burial expenses incurred as a direct result  
16 of the ~~crime~~ *crime*, not to exceed seven thousand five hundred  
17 dollars (\$7,500). ~~The board shall consider granting an applicant~~  
18 ~~an award up to seven thousand five hundred dollars (\$7,500).~~ Any  
19 regulation or policy by the board creating a maximum amount of  
20 an award pursuant to this provision for less than seven thousand  
21 five hundred dollars (\$7,500) is prohibited.

22 (10) When the crime occurs in a residence, the board may  
23 reimburse any individual who voluntarily, and without anticipation  
24 of personal gain, pays or assumes the obligation to pay the  
25 reasonable costs to clean the scene of the crime in an amount not  
26 to exceed one thousand dollars (\$1,000). Services reimbursed  
27 pursuant to this subdivision shall be performed by persons  
28 registered with the State Department of Public Health as trauma  
29 scene waste practitioners in accordance with Chapter 9.5  
30 (commencing with Section 118321) of Part 14 of Division 104 of  
31 the Health and Safety Code.

32 (11) When the crime is a violation of Section 600.2 or 600.5 of  
33 the Penal Code, the board may reimburse the expense of veterinary  
34 services, replacement costs, or other reasonable expenses, as  
35 ordered by the court pursuant to Section 600.2 or 600.5 of the  
36 Penal Code, in an amount not to exceed ten thousand dollars  
37 (\$10,000).

38 (b) The total award to or on behalf of each victim or derivative  
39 victim may not exceed thirty-five thousand dollars (\$35,000),

1 except that this amount may be increased to seventy thousand  
2 dollars (\$70,000) if federal funds for that increase are available.

3 SEC. 4. Section 13958 of the Government Code is amended  
4 to read:

5 13958. The board shall approve or deny applications, based  
6 on recommendations of the board staff, within 90 calendar days  
7 of acceptance by the board or victim center.

8 (a) If the board does not meet the 90-day requirement prescribed  
9 in this subdivision, the board shall, thereafter, report to the  
10 Legislature, on a quarterly basis, its progress and its current average  
11 time of processing applications. These quarterly reports shall  
12 continue until the board meets the 90-day requirement for two  
13 consecutive quarters.

14 (b) If the board fails to approve or deny an individual application  
15 within 90 days of the date it is accepted, pursuant to this  
16 subdivision, the board shall advise the applicant and his or her  
17 representative, in writing, of the reason for the failure to approve  
18 or deny the application.

19 SEC. 5. Section 13959 of the Government Code is amended  
20 to read:

21 13959. (a) The board shall grant a hearing to an applicant who  
22 believes he or she is entitled to compensation pursuant to this  
23 chapter to contest a staff recommendation to deny compensation  
24 in whole or in part.

25 (b) The board shall notify the applicant not less than 10 days  
26 prior to the date of the hearing. Notwithstanding Section 11123,  
27 if the application that the board is considering involves either a  
28 crime against a minor, a crime of sexual assault, or a crime of  
29 domestic violence, the board may exclude from the hearing all  
30 persons other than board members and members of its staff, the  
31 applicant for benefits, a minor applicant's parents or guardians,  
32 the applicant's representative, witnesses, and other persons of the  
33 applicant's choice to provide assistance to the applicant during the  
34 hearing. However, the board shall not exclude persons from the  
35 hearing if the applicant or applicant's representative requests that  
36 the hearing be open to the public.

37 (c) At the hearing, the person seeking compensation shall have  
38 the burden of establishing, by a preponderance of the evidence,  
39 the elements for eligibility under Section 13955.

(d) Except as otherwise provided by law, in making determinations of eligibility for compensation and in deciding upon the amount of compensation, the board shall apply the law in effect as of the date an application was submitted.

(e) (1) The hearing shall be informal and need not be conducted according to the technical rules relating to evidence and witnesses. The board may rely on any relevant evidence if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of a common law or statutory rule that might make improper the admission of the evidence over objection in a civil action. The board may rely on written reports prepared for the board, or other information received, from public agencies responsible for investigating the crime. If the applicant or the applicant's representative chooses not to appear at the hearing, the board may act solely upon the application for compensation, the staff's report, and other evidence that appears in the record.

(2) The board shall allow a service animal to accompany and support a witness while testifying at a hearing.

(f) Hearings shall be held in various locations with the frequency necessary to provide for the speedy adjudication of the applications. If the applicant's presence is required at the hearing, the board shall schedule the applicant's hearing in as convenient a location as possible.

(g) The board may delegate the hearing of applications to hearing officers.

(h) The decisions of the board shall be in writing. Copies of the decisions shall be delivered to the applicant or to his or her representative personally or sent to him or her by mail.

(i) The board may order a reconsideration of all or part of a decision on written request of the applicant. The board shall not grant more than one request for reconsideration with respect to any one decision on an application for compensation. The board shall not consider any request for reconsideration filed with the board more than 30 calendar days after the personal delivery or 60 calendar days after the mailing of the original decision.

(j) The board may order a reconsideration of all or part of a decision on its own motion, at its discretion, at any time.

~~SEC. 6. Section 1050 of the Penal Code is amended to read:~~

1     1050. ~~(a) The welfare of the people of the State of California~~  
2 ~~requires that all proceedings in criminal cases shall be set for trial~~  
3 ~~and heard and determined at the earliest possible time. To this end,~~  
4 ~~the Legislature finds that the criminal courts are becoming~~  
5 ~~increasingly congested with resulting adverse consequences to the~~  
6 ~~welfare of the people and the defendant. Excessive continuances~~  
7 ~~contribute substantially to this congestion and cause substantial~~  
8 ~~hardship to victims and other witnesses. Continuances also lead~~  
9 ~~to longer periods of presentence confinement for those defendants~~  
10 ~~in custody and the concomitant overcrowding and increased~~  
11 ~~expenses of local jails. It is therefore recognized that the people,~~  
12 ~~the defendant, and the victims and other witnesses have the right~~  
13 ~~to an expeditious disposition, and to that end it shall be the duty~~  
14 ~~of all courts and judicial officers and of all counsel, both for the~~  
15 ~~prosecution and the defense, to expedite these proceedings to the~~  
16 ~~greatest degree that is consistent with the ends of justice. In~~  
17 ~~accordance with this policy, criminal cases shall be given~~  
18 ~~precedence over, and set for trial and heard without regard to the~~  
19 ~~pendency of, any civil matters or proceedings. In further accordance~~  
20 ~~with this policy, death penalty cases in which both the prosecution~~  
21 ~~and the defense have informed the court that they are prepared to~~  
22 ~~proceed to trial shall be given precedence over, and set for trial~~  
23 ~~and heard without regard to the pendency of, other criminal cases~~  
24 ~~and any civil matters or proceedings, unless the court finds in the~~  
25 ~~interest of justice that it is not appropriate.~~

26     ~~(b) To continue any hearing in a criminal proceeding, including~~  
27 ~~the trial, (1) a written notice shall be filed and served on all parties~~  
28 ~~to the proceeding at least two court days before the hearing sought~~  
29 ~~to be continued, together with affidavits or declarations detailing~~  
30 ~~specific facts showing that a continuance is necessary and (2)~~  
31 ~~within two court days of learning that he or she has a conflict in~~  
32 ~~the scheduling of any court hearing, including a trial, an attorney~~  
33 ~~shall notify the calendar clerk of each court involved, in writing,~~  
34 ~~indicating which hearing was set first. A party shall not be deemed~~  
35 ~~to have been served within the meaning of this section until that~~  
36 ~~party actually has received a copy of the documents to be served,~~  
37 ~~unless the party, after receiving actual notice of the request for~~  
38 ~~continuance, waives the right to have the documents served in a~~  
39 ~~timely manner. Regardless of the proponent of the motion, the~~  
40 ~~prosecuting attorney shall notify the people's witnesses and the~~

1 defense attorney shall notify the defense's witnesses of the notice  
2 of motion, the date of the hearing, and the witnesses' right to be  
3 heard by the court.

4 (e) Notwithstanding subdivision (b), a party may make a motion  
5 for a continuance without complying with the requirements of that  
6 subdivision. However, unless the moving party shows good cause  
7 for the failure to comply with those requirements, the court may  
8 impose sanctions as provided in Section 1050.5.

9 (d) When a party makes a motion for a continuance without  
10 complying with the requirements of subdivision (b), the court shall  
11 hold a hearing on whether there is good cause for the failure to  
12 comply with those requirements. At the conclusion of the hearing,  
13 the court shall make a finding whether good cause has been shown  
14 and, if it finds that there is good cause, shall state on the record  
15 the facts proved that justify its finding. A statement of the finding  
16 and a statement of facts proved shall be entered in the minutes. If  
17 the moving party is unable to show good cause for the failure to  
18 give notice, the motion for continuance shall not be granted.

19 (e) Continuances shall be granted only upon a showing of good  
20 cause. Neither the convenience of the parties nor a stipulation of  
21 the parties is in and of itself good cause.

22 (f) At the conclusion of the motion for continuance, the court  
23 shall make a finding whether good cause has been shown and, if  
24 it finds that there is good cause, shall state on the record the facts  
25 proved that justify its finding. A statement of facts proved shall  
26 be entered in the minutes.

27 (g) (1) When deciding whether or not good cause for a  
28 continuance has been shown, the court shall consider the general  
29 convenience and prior commitments of all witnesses, including  
30 peace officers. Both the general convenience and prior  
31 commitments of each witness also shall be considered in selecting  
32 a continuance date if the motion is granted. The facts as to  
33 inconvenience or prior commitments may be offered by the witness  
34 or by a party to the case.

35 (2) For purposes of this section, "good cause" includes, but is  
36 not limited to, those cases involving murder, as defined in  
37 subdivision (a) of Section 187, allegations that stalking, as defined  
38 in Section 646.9, a violation of one or more of the sections  
39 specified in subdivision (a) of Section 11165.1 or Section 11165.6,  
40 domestic violence, as defined in Section 13700, a hate crime, as



1 defined in Title 11.6 (commencing with Section 422.6) of Part 1,  
2 or elder abuse, as defined in Section 368 of the Penal Code, has  
3 occurred, or a case being handled in the Career Criminal  
4 Prosecution Program pursuant to Sections 999b through 999h, and  
5 the prosecuting attorney assigned to the case has another trial,  
6 preliminary hearing, or motion to suppress in progress in that court  
7 or another court. A continuance under this paragraph shall be  
8 limited to a maximum of 10 additional court days.

9 (3) Only one continuance per case may be granted to the people  
10 under this subdivision for cases involving stalking, hate crimes,  
11 or cases handled under the Career Criminal Prosecution Program.  
12 Any continuance granted to the people in a case involving stalking  
13 or handled under the Career Criminal Prosecution Program shall  
14 be for the shortest time possible, not to exceed 10 court days.

15 (h) Upon a showing that the attorney of record at the time of  
16 the defendant's first appearance in the superior court on an  
17 indictment or information is a Member of the Legislature of this  
18 state and that the Legislature is in session or that a legislative  
19 interim committee of which the attorney is a duly appointed  
20 member is meeting or is to meet within the next seven days, the  
21 defendant shall be entitled to a reasonable continuance not to  
22 exceed 30 days.

23 (i) A continuance shall be granted only for that period of time  
24 shown to be necessary by the evidence considered at the hearing  
25 on the motion. Whenever any continuance is granted, the court  
26 shall state on the record the facts proved that justify the length of  
27 the continuance, and those facts shall be entered in the minutes.

28 (j) Whenever it shall appear that any court may be required,  
29 because of the condition of its calendar, to dismiss an action  
30 pursuant to Section 1382, the court must immediately notify the  
31 Chair of the Judicial Council.

32 (k) This section shall not apply when the preliminary  
33 examination is set on a date less than 10 court days from the date  
34 of the defendant's arraignment on the complaint, and the  
35 prosecution or the defendant moves to continue the preliminary  
36 examination to a date not more than 10 court days from the date  
37 of the defendant's arraignment on the complaint.

38 (l) This section is directory only and does not mandate dismissal  
39 of an action by its terms.

1     ~~SEC. 7.~~

2     *SEC. 6.* Section 1202.4 of the Penal Code is amended to read:

3     1202.4. (a) (1) It is the intent of the Legislature that a victim  
4 of crime who incurs an economic loss as a result of the commission  
5 of a crime shall receive restitution directly from a defendant  
6 convicted of that crime.

7     (2) Upon a person being convicted of a crime in the State of  
8 California, the court shall order the defendant to pay a fine in the  
9 form of a penalty assessment in accordance with Section 1464.

10    (3) The court, in addition to any other penalty provided or  
11 imposed under the law, shall order the defendant to pay both of  
12 the following:

13    (A) A restitution fine in accordance with subdivision (b).

14    (B) Restitution to the victim or victims, if any, in accordance  
15 with subdivision (f), which shall be enforceable as if the order  
16 were a civil judgment.

17    (b) In every case where a person is convicted of a crime, the  
18 court shall impose a separate and additional restitution fine, unless  
19 it finds compelling and extraordinary reasons for not doing so and  
20 states those reasons on the record.

21    (1) The restitution fine shall be set at the discretion of the court  
22 and commensurate with the seriousness of the offense. If the person  
23 is convicted of a felony, the fine shall not be less than two hundred  
24 forty dollars (\$240) starting on January 1, 2012, two hundred eighty  
25 dollars (\$280) starting on January 1, 2013, and three hundred  
26 dollars (\$300) starting on January 1, 2014, and not more than ten  
27 thousand dollars (\$10,000). If the person is convicted of a  
28 misdemeanor, the fine shall not be less than one hundred twenty  
29 dollars (\$120) starting on January 1, 2012, one hundred forty  
30 dollars (\$140) starting on January 1, 2013, and one hundred fifty  
31 dollars (\$150) starting on January 1, 2014, and not more than one  
32 thousand dollars (\$1,000).

33    (2) In setting a felony restitution fine, the court may determine  
34 the amount of the fine as the product of the minimum fine pursuant  
35 to paragraph (1) multiplied by the number of years of imprisonment  
36 the defendant is ordered to serve, multiplied by the number of  
37 felony counts of which the defendant is convicted.

38    (c) The court shall impose the restitution fine unless it finds  
39 compelling and extraordinary reasons for not doing so and states  
40 those reasons on the record. A defendant's inability to pay shall

1 not be considered a compelling and extraordinary reason not to  
2 impose a restitution fine. Inability to pay may be considered only  
3 in increasing the amount of the restitution fine in excess of the  
4 minimum fine pursuant to paragraph (1) of subdivision (b). The  
5 court may specify that funds confiscated at the time of the  
6 defendant's arrest, except for funds confiscated pursuant to Section  
7 11469 of the Health and Safety Code, be applied to the restitution  
8 fine if the funds are not exempt for spousal or child support or  
9 subject to any other legal exemption.

10 (d) In setting the amount of the fine pursuant to subdivision (b)  
11 in excess of the minimum fine pursuant to paragraph (1) of  
12 subdivision (b), the court shall consider any relevant factors,  
13 including, but not limited to, the defendant's inability to pay, the  
14 seriousness and gravity of the offense and the circumstances of its  
15 commission, any economic gain derived by the defendant as a  
16 result of the crime, the extent to which any other person suffered  
17 losses as a result of the crime, and the number of victims involved  
18 in the crime. Those losses may include pecuniary losses to the  
19 victim or his or her dependents as well as intangible losses, such  
20 as psychological harm caused by the crime. Consideration of a  
21 defendant's inability to pay may include his or her future earning  
22 capacity. A defendant shall bear the burden of demonstrating his  
23 or her inability to pay. Express findings by the court as to the  
24 factors bearing on the amount of the fine shall not be required. A  
25 separate hearing for the fine shall not be required.

26 (e) The restitution fine shall not be subject to penalty  
27 assessments authorized in Section 1464 or Chapter 12  
28 (commencing with Section 76000) of Title 8 of the Government  
29 Code, or the state surcharge authorized in Section 1465.7, and  
30 shall be deposited in the Restitution Fund in the State Treasury.

31 (f) Except as provided in subdivisions (q) and (r), in every case  
32 in which a victim has suffered economic loss as a result of the  
33 defendant's conduct, the court shall require that the defendant  
34 make restitution to the victim or victims in an amount established  
35 by court order, based on the amount of loss claimed by the victim  
36 or victims or any other showing to the court. If the amount of loss  
37 cannot be ascertained at the time of sentencing, the restitution  
38 order shall include a provision that the amount shall be determined  
39 at the direction of the court. The court shall order full restitution  
40 unless it finds compelling and extraordinary reasons for not doing

1 so and states them on the record. The court may specify that funds  
2 confiscated at the time of the defendant's arrest, except for funds  
3 confiscated pursuant to Section 11469 of the Health and Safety  
4 Code, be applied to the restitution order if the funds are not exempt  
5 for spousal or child support or subject to any other legal exemption.

6 (1) The defendant has the right to a hearing before a judge to  
7 dispute the determination of the amount of restitution. The court  
8 may modify the amount, on its own motion or on the motion of  
9 the district attorney, the victim or victims, or the defendant. If a  
10 motion is made for modification of a restitution order, the victim  
11 shall be notified of that motion at least 10 days prior to the  
12 proceeding held to decide the motion. A victim at a restitution  
13 hearing or modification hearing described in this paragraph may  
14 testify by live, two-way audio and video transmission, if testimony  
15 by live, two-way audio and video transmission is available at the  
16 court.

17 (2) Determination of the amount of restitution ordered pursuant  
18 to this subdivision shall not be affected by the indemnification or  
19 subrogation rights of a third party. Restitution ordered pursuant to  
20 this subdivision shall be ordered to be deposited to the Restitution  
21 Fund to the extent that the victim, as defined in subdivision (k),  
22 has received assistance from the California Victim Compensation  
23 and Government Claims Board pursuant to Chapter 5 (commencing  
24 with Section 13950) of Part 4 of Division 3 of Title 2 of the  
25 Government Code.

26 (3) To the extent possible, the restitution order shall be prepared  
27 by the sentencing court, shall identify each victim and each loss  
28 to which it pertains, and shall be of a dollar amount that is sufficient  
29 to fully reimburse the victim or victims for every determined  
30 economic loss incurred as the result of the defendant's criminal  
31 conduct, including, but not limited to, all of the following:

32 (A) Full or partial payment for the value of stolen or damaged  
33 property. The value of stolen or damaged property shall be the  
34 replacement cost of like property, or the actual cost of repairing  
35 the property when repair is possible.

36 (B) Medical expenses.

37 (C) Mental health counseling expenses.

38 (D) Wages or profits lost due to injury incurred by the victim,  
39 and if the victim is a minor, wages or profits lost by the minor's  
40 parent, parents, guardian, or guardians, while caring for the injured

1 minor. Lost wages shall include commission income as well as  
2 base wages. Commission income shall be established by evidence  
3 of commission income during the 12-month period prior to the  
4 date of the crime for which restitution is being ordered, unless  
5 good cause for a shorter time period is shown.

6 (E) Wages or profits lost by the victim, and if the victim is a  
7 minor, wages or profits lost by the minor's parent, parents,  
8 guardian, or guardians, due to time spent as a witness or in assisting  
9 the police or prosecution. Lost wages shall include commission  
10 income as well as base wages. Commission income shall be  
11 established by evidence of commission income during the  
12 12-month period prior to the date of the crime for which restitution  
13 is being ordered, unless good cause for a shorter time period is  
14 shown.

15 (F) Noneconomic losses, including, but not limited to,  
16 psychological harm, for felony violations of Section 288.

17 (G) Interest, at the rate of 10 percent per annum, that accrues  
18 as of the date of sentencing or loss, as determined by the court.

19 (H) Actual and reasonable attorney's fees and other costs of  
20 collection accrued by a private entity on behalf of the victim.

21 (I) Expenses incurred by an adult victim in relocating away  
22 from the defendant, including, but not limited to, deposits for  
23 utilities and telephone service, deposits for rental housing,  
24 temporary lodging and food expenses, clothing, and personal items.  
25 Expenses incurred pursuant to this section shall be verified by law  
26 enforcement to be necessary for the personal safety of the victim  
27 or by a mental health treatment provider to be necessary for the  
28 emotional well-being of the victim.

29 (J) Expenses to install or increase residential security incurred  
30 related to a violent felony, as defined in subdivision (c) of Section  
31 667.5, including, but not limited to, a home security device or  
32 system, or replacing or increasing the number of locks.

33 (K) Expenses to retrofit a residence or vehicle, or both, to make  
34 the residence accessible to or the vehicle operational by the victim,  
35 if the victim is permanently disabled, whether the disability is  
36 partial or total, as a direct result of the crime.

37 (L) Expenses for a period of time reasonably necessary to make  
38 the victim whole, for the costs to monitor the credit report of, and  
39 for the costs to repair the credit of, a victim of identity theft, as  
40 defined in Section 530.5.

1 (4) (A) If, as a result of the defendant's conduct, the Restitution  
2 Fund has provided assistance to or on behalf of a victim or  
3 derivative victim pursuant to Chapter 5 (commencing with Section  
4 13950) of Part 4 of Division 3 of Title 2 of the Government Code,  
5 the amount of assistance provided shall be presumed to be a direct  
6 result of the defendant's criminal conduct and shall be included  
7 in the amount of the restitution ordered.

8 (B) The amount of assistance provided by the Restitution Fund  
9 shall be established by copies of bills submitted to the California  
10 Victim Compensation and Government Claims Board reflecting  
11 the amount paid by the board and whether the services for which  
12 payment was made were for medical or dental expenses, funeral  
13 or burial expenses, mental health counseling, wage or support  
14 losses, or rehabilitation. Certified copies of these bills provided  
15 by the board and redacted to protect the privacy and safety of the  
16 victim or any legal privilege, together with a statement made under  
17 penalty of perjury by the custodian of records that those bills were  
18 submitted to and were paid by the board, shall be sufficient to meet  
19 this requirement.

20 (C) If the defendant offers evidence to rebut the presumption  
21 established by this paragraph, the court may release additional  
22 information contained in the records of the board to the defendant  
23 only after reviewing that information in camera and finding that  
24 the information is necessary for the defendant to dispute the amount  
25 of the restitution order.

26 (5) Except as provided in paragraph (6), in any case in which  
27 an order may be entered pursuant to this subdivision, the defendant  
28 shall prepare and file a disclosure identifying all assets, income,  
29 and liabilities in which the defendant held or controlled a present  
30 or future interest as of the date of the defendant's arrest for the  
31 crime for which restitution may be ordered. The financial disclosure  
32 statements shall be made available to the victim and the board  
33 pursuant to Section 1214. The disclosure shall be signed by the  
34 defendant upon a form approved or adopted by the Judicial Council  
35 for the purpose of facilitating the disclosure. A defendant who  
36 willfully states as true a material matter that he or she knows to  
37 be false on the disclosure required by this subdivision is guilty of  
38 a misdemeanor, unless this conduct is punishable as perjury or  
39 another provision of law provides for a greater penalty.

1 (6) A defendant who fails to file the financial disclosure required  
2 in paragraph (5), but who has filed a financial affidavit or financial  
3 information pursuant to subdivision (c) of Section 987, shall be  
4 deemed to have waived the confidentiality of that affidavit or  
5 financial information as to a victim in whose favor the order of  
6 restitution is entered pursuant to subdivision (f). The affidavit or  
7 information shall serve in lieu of the financial disclosure required  
8 in paragraph (5), and paragraphs (7) to (10), inclusive, shall not  
9 apply.

10 (7) Except as provided in paragraph (6), the defendant shall file  
11 the disclosure with the clerk of the court no later than the date set  
12 for the defendant's sentencing, unless otherwise directed by the  
13 court. The disclosure may be inspected or copied as provided by  
14 subdivision (b), (c), or (d) of Section 1203.05.

15 (8) In its discretion, the court may relieve the defendant of the  
16 duty under paragraph (7) of filing with the clerk by requiring that  
17 the defendant's disclosure be submitted as an attachment to, and  
18 be available to, those authorized to receive the following:

19 (A) A report submitted pursuant to subparagraph (C) of  
20 paragraph (2) of subdivision (b) of Section 1203 or subdivision  
21 (g) of Section 1203.

22 (B) A stipulation submitted pursuant to paragraph (4) of  
23 subdivision (b) of Section 1203.

24 (C) A report by the probation officer, or information submitted  
25 by the defendant applying for a conditional sentence pursuant to  
26 subdivision (d) of Section 1203.

27 (9) The court may consider a defendant's unreasonable failure  
28 to make a complete disclosure pursuant to paragraph (5) as any of  
29 the following:

30 (A) A circumstance in aggravation of the crime in imposing a  
31 term under subdivision (b) of Section 1170.

32 (B) A factor indicating that the interests of justice would not be  
33 served by admitting the defendant to probation under Section 1203.

34 (C) A factor indicating that the interests of justice would not be  
35 served by conditionally sentencing the defendant under Section  
36 1203.

37 (D) A factor indicating that the interests of justice would not  
38 be served by imposing less than the maximum fine and sentence  
39 fixed by law for the case.

1 (10) A defendant's failure or refusal to make the required  
2 disclosure pursuant to paragraph (5) shall not delay entry of an  
3 order of restitution or pronouncement of sentence. In appropriate  
4 cases, the court may do any of the following:

5 (A) Require the defendant to be examined by the district attorney  
6 pursuant to subdivision (h).

7 (B) If sentencing the defendant under Section 1170, provide  
8 that the victim shall receive a copy of the portion of the probation  
9 report filed pursuant to Section 1203.10 concerning the defendant's  
10 employment, occupation, finances, and liabilities.

11 (C) If sentencing the defendant under Section 1203, set a date  
12 and place for submission of the disclosure required by paragraph  
13 (5) as a condition of probation or suspended sentence.

14 (11) If a defendant has any remaining unpaid balance on a  
15 restitution order or fine 120 days prior to his or her scheduled  
16 release from probation or 120 days prior to his or her completion  
17 of a conditional sentence, the defendant shall prepare and file a  
18 new and updated financial disclosure identifying all assets, income,  
19 and liabilities in which the defendant holds or controls or has held  
20 or controlled a present or future interest during the defendant's  
21 period of probation or conditional sentence. The financial  
22 disclosure shall be made available to the victim and the board  
23 pursuant to Section 1214. The disclosure shall be signed and  
24 prepared by the defendant on the same form as described in  
25 paragraph (5). A defendant who willfully states as true a material  
26 matter that he or she knows to be false on the disclosure required  
27 by this subdivision is guilty of a misdemeanor, unless this conduct  
28 is punishable as perjury or another provision of law provides for  
29 a greater penalty. The financial disclosure required by this  
30 paragraph shall be filed with the clerk of the court no later than  
31 90 days prior to the defendant's scheduled release from probation  
32 or completion of the defendant's conditional sentence.

33 (12) In cases where an employer is convicted of a crime against  
34 an employee, a payment to the employee or the employee's  
35 dependent that is made by the employer's workers' compensation  
36 insurance carrier shall not be used to offset the amount of the  
37 restitution order unless the court finds that the defendant  
38 substantially met the obligation to pay premiums for that insurance  
39 coverage.



1 (g) The court shall order full restitution unless it finds  
2 compelling and extraordinary reasons for not doing so and states  
3 those reasons on the record. A defendant's inability to pay shall  
4 not be considered a compelling and extraordinary reason not to  
5 impose a restitution order, nor shall inability to pay be a  
6 consideration in determining the amount of a restitution order.

7 (h) The district attorney may request an order of examination  
8 pursuant to the procedures specified in Article 2 (commencing  
9 with Section 708.110) of Chapter 6 of Division 2 of Title 9 of Part  
10 2 of the Code of Civil Procedure, in order to determine the  
11 defendant's financial assets for purposes of collecting on the  
12 restitution order.

13 (i) A restitution order imposed pursuant to subdivision (f) shall  
14 be enforceable as if the order were a civil judgment.

15 (j) The making of a restitution order pursuant to subdivision (f)  
16 shall not affect the right of a victim to recovery from the Restitution  
17 Fund as otherwise provided by law, except to the extent that  
18 restitution is actually collected pursuant to the order. Restitution  
19 collected pursuant to this subdivision shall be credited to any other  
20 judgments for the same losses obtained against the defendant  
21 arising out of the crime for which the defendant was convicted.

22 (k) For purposes of this section, "victim" shall include all of  
23 the following:

24 (1) The immediate surviving family of the actual victim.

25 (2) A corporation, business trust, estate, trust, partnership,  
26 association, joint venture, government, governmental subdivision,  
27 agency, or instrumentality, or any other legal or commercial entity  
28 when that entity is a direct victim of a crime.

29 (3) A person who has sustained economic loss as the result of  
30 a crime and who satisfies any of the following conditions:

31 (A) At the time of the crime was the parent, grandparent, sibling,  
32 spouse, child, or grandchild of the victim.

33 (B) At the time of the crime was living in the household of the  
34 victim.

35 (C) At the time of the crime was a person who had previously  
36 lived in the household of the victim for a period of not less than  
37 two years in a relationship substantially similar to a relationship  
38 listed in subparagraph (A).

1 (D) Is another family member of the victim, including, but not  
2 limited to, the victim's fiancé or fiancée, and who witnessed the  
3 crime.

4 (E) Is the primary caretaker of a minor victim.

5 (4) A person who is eligible to receive assistance from the  
6 Restitution Fund pursuant to Chapter 5 (commencing with Section  
7 13950) of Part 4 of Division 3 of Title 2 of the Government Code.

8 (5) A governmental entity that is responsible for repairing,  
9 replacing, or restoring public or privately owned property that has  
10 been defaced with graffiti or other inscribed material, as defined  
11 in subdivision (e) of Section 594, and that has sustained an  
12 economic loss as the result of a violation of Section 594, 594.3,  
13 594.4, 640.5, 640.6, or ~~640.7 of the Penal Code.~~ 640.7.

14 (l) At its discretion, the board of supervisors of a county may  
15 impose a fee to cover the actual administrative cost of collecting  
16 the restitution fine, not to exceed 10 percent of the amount ordered  
17 to be paid, to be added to the restitution fine and included in the  
18 order of the court, the proceeds of which shall be deposited in the  
19 general fund of the county.

20 (m) In every case in which the defendant is granted probation,  
21 the court shall make the payment of restitution fines and orders  
22 imposed pursuant to this section a condition of probation. Any  
23 portion of a restitution order that remains unsatisfied after a  
24 defendant is no longer on probation shall continue to be enforceable  
25 by a victim pursuant to Section 1214 until the obligation is  
26 satisfied.

27 (n) If the court finds and states on the record compelling and  
28 extraordinary reasons why a restitution fine or full restitution order  
29 should not be required, the court shall order, as a condition of  
30 probation, that the defendant perform specified community service,  
31 unless it finds and states on the record compelling and  
32 extraordinary reasons not to require community service in addition  
33 to the finding that restitution should not be required. Upon  
34 revocation of probation, the court shall impose restitution pursuant  
35 to this section.

36 (o) The provisions of Section 13963 of the Government Code  
37 shall apply to restitution imposed pursuant to this section.

38 (p) The court clerk shall notify the California Victim  
39 Compensation and Government Claims Board within 90 days of  
40 an order of restitution being imposed if the defendant is ordered

1 to pay restitution to the board due to the victim receiving  
2 compensation from the Restitution Fund. Notification shall be  
3 accomplished by mailing a copy of the court order to the board,  
4 which may be done periodically by bulk mail or email.

5 (q) Upon conviction for a violation of Section 236.1, the court  
6 shall, in addition to any other penalty or restitution, order the  
7 defendant to pay restitution to the victim in a case in which a victim  
8 has suffered economic loss as a result of the defendant's conduct.  
9 The court shall require that the defendant make restitution to the  
10 victim or victims in an amount established by court order, based  
11 on the amount of loss claimed by the victim or victims or another  
12 showing to the court. In determining restitution pursuant to this  
13 section, the court shall base its order upon the greater of the  
14 following: the gross value of the victim's labor or services based  
15 upon the comparable value of similar services in the labor market  
16 in which the offense occurred, or the value of the victim's labor  
17 as guaranteed under California law, or the actual income derived  
18 by the defendant from the victim's labor or services or any other  
19 appropriate means to provide reparations to the victim.

20 (r) (1) In addition to any other penalty or fine, the court shall  
21 order a person who has been convicted of a violation of Section  
22 350, 653h, 653s, 653u, 653w, or 653aa that involves a recording  
23 or audiovisual work to make restitution to an owner or lawful  
24 producer, or trade association acting on behalf of the owner or  
25 lawful producer, of a phonograph record, disc, wire, tape, film, or  
26 other device or article from which sounds or visual images are  
27 derived that suffered economic loss resulting from the violation.  
28 The order of restitution shall be based on the aggregate wholesale  
29 value of lawfully manufactured and authorized devices or articles  
30 from which sounds or visual images are devised corresponding to  
31 the number of nonconforming devices or articles involved in the  
32 offense, unless a higher value can be proved in the case of (A) an  
33 unreleased audio work, or (B) an audiovisual work that, at the time  
34 of unauthorized distribution, has not been made available in copies  
35 for sale to the general public in the United States on a digital  
36 versatile disc. For purposes of this subdivision, possession of  
37 nonconforming devices or articles intended for sale constitutes  
38 actual economic loss to an owner or lawful producer in the form  
39 of displaced legitimate wholesale purchases. The order of  
40 restitution shall also include reasonable costs incurred as a result

1 of an investigation of the violation undertaken by the owner, lawful  
2 producer, or trade association acting on behalf of the owner or  
3 lawful producer. “Aggregate wholesale value” means the average  
4 wholesale value of lawfully manufactured and authorized sound  
5 or audiovisual recordings. Proof of the specific wholesale value  
6 of each nonconforming device or article is not required.

7 (2) As used in this subdivision, “audiovisual work” and  
8 “recording” shall have the same meaning as in Section 653w.